



United States Department of Agriculture

Office of the General Counsel

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January 23, 2004

VIA ELECTRONIC FILING

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Hells Canyon
Hydroelectric Project No. 1971-079**

Dear Ms. Salas:

Enclosed for filing in the above-referenced proceeding is the U.S. Department of Agriculture's MOTION TO INTERVENE.

Copies of this document have been served on all parties of record to these proceedings.

Sincerely,

JAMES E. ALEXANDER
Acting Associate Regional Attorney

Jocelyn B. Somers
Attorney

Enclosure

cc: Service List
Walt Dortch
Gerrish Willis

JBS/mg/jan/HELLSCAN/FERC

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

IN THE MATTER OF THE APPLICATION) FOR THE NEW LICENSE FOR) HELLS CANYON) HYDROELECTRIC PROJECT) <hr style="width: 40%; margin-left: 0;"/>))))))	Project Number: 1971-079
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UNITED STATES DEPARTMENT OF AGRICULTURE

MOTION TO INTERVENE

On July 21, 2003, Idaho Power Company (IPC) filed with the Federal Energy Regulatory Commission (Commission) a Final License Application for the Hells Canyon Hydroelectric Project (Project). On December 2, 2003, the Commission issued a Notice of Application Accepted for Filing, and soliciting motions to intervene and protests with a deadline for filing of January 30, 2004. The USDA Forest Service wishes to intervene in the proceeding so that the USDA Forest Service, as a party, will be kept fully informed in all matters related to the Application for the new license.

The purpose of the application is for the applicant, consistent with the Federal Power Act (FPA) and applicable Commission regulations, to secure a new license for the continued operations of this Project. Operations associated with the new license will have environmental effects on National Forest System (NFS) lands currently occupied by the Project. These effects must be assessed and the USDA must be given the opportunity to develop terms and conditions as provided by the FPA to protect NFS lands and resources

and to mitigate for effects to NFS lands and resources as determined necessary by the Secretary of Agriculture.

The United States Department of Agriculture (Department) hereby moves the Commission, pursuant to 18 C.F.R. § 385.214(d), for leave to intervene in any proceedings which may be convened in response to IPC's application for a new license for the Project. The Department represents national public interests, which may be affected directly by the Project and which otherwise, would not be represented before the Commission. The interests and responsibilities of the Department and the resulting grounds for its intervention are set out below as a basis for an order granting the Department's motion to intervene.

All correspondence and communications concerning this proceeding should be mailed to:

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INTERESTS OF THE DEPARTMENT

IPC filed an application for relicensing of the Project on the Snake River in Washington and Adams, Counties, Idaho; and Wallowa and Baker Counties, Oregon. The Project is the largest non-federal hydroelectric facility that will be relicensed on NFS lands in the Pacific Northwest. The Project as currently licensed includes approximately 450 and 910 acres of the Wallowa-Whitman and Payette National Forests, respectively, and approximately 584 acres in transmission line corridors across both Forests. Congress recognized the significance of the Snake River Canyon when it established the Hells Canyon National Recreation Area and designated the Snake River below Hells Canyon Dam as a Wild and Scenic River in 1975 (PL 94-199).

The Secretary of Agriculture, through the USDA Forest Service, is entrusted with federal jurisdiction over the management of NFS lands. Under the Organic Administration Act, the USDA Forest Service has a federal mandate to improve and

protect the Forest, secure favorable conditions of water flows, and to provide a continuous supply of timber. The USDA Forest Service is further mandated to administer NFS lands for outdoor recreation, range, timber, watershed, wildlife, and fish purposes under the Multiple Use Sustained Yield Act of 1960.

The Project has the potential to affect any or all of these resources. Proposed Project operations and proposed modifications to the Project are currently being analyzed and assessed. This will enable the USDA Forest Service to develop license terms and conditions under the authority provided by Section 4(e) of the FPA to protect resources or provide for mitigation to resources that may be affected by the new license.

The following resources potentially impacted by continuing project operations include but are not limited to those discussed below.

Hydrologic and Sediment Resources

Under the proposed operational scenario, Project generated clear water flows and flow fluctuations will continue to play a role affecting water quality and the physical processes necessary to sustain or enhance channel morphology, function and stability. There will also be effects to rate of erosion of alluvial and fluvial features, and to spawning and rearing substrate and riparian communities. The Project will continue to affect other riparian, terrestrial and aquatic habitat components as well as heritage resources within and downstream of Hells Canyon dam.

Water Quality

The proposed operational scenario has the potential to continue to affect water quality. It is likely that there will be effects to: 1) internal nutrient recycling, 2) fall and spring water temperatures below Hells Canyon dam, 3) dissolved oxygen (DO), 4) levels of inorganochlorine compounds and trace elements, and 5) total dissolved gas (TDG) below all three Hells Canyon dams.

Recreation

The Project has the potential to affect the Congressionally designated Hells Canyon National Recreation Area (Public Law 94-199 (1975) and the 71.5 mile Wild and Scenic river segment of the Snake River between Hells Canyon dam and the Oregon-Washington border. This river segment was designated as Wild and Scenic in order to preserve the natural beauty, historical, archeological and Outstanding Remarkable Values of the Hells Canyon area for this and future generations.

Aesthetic Resources

The proposed operational scenario has the potential to continue the impacts to the hydrology, geomorphology, and sediment transport of the Snake River affecting the aesthetic quality and recreation experience of Hells Canyon and other NFS lands within the Project.

Cultural Resources

The Project has the potential to affect erosion of cultural sites located on downstream sandbars and terraces resulting from sediment-free flows exiting the Hells Canyon dam. Project operations are also partly responsible for recreation impacts to

cultural sites downstream from Hells Canyon dam, deterioration of organic-based archaeological material, and to cultural resource sites along transmission line corridors.

Fisheries

There are environmental effects on the native and desired non-native fish resources both within Project reservoirs and below Hells Canyon dam. Hells Canyon dam effectively terminates upstream passage for native and anadromous fish (fall chinook, spring/summer chinook and steelhead) stocks, and Pacific lamprey. USDA Forest Service objectives are to provide habitat to recover populations of anadromous fish and bull trout below Hells Canyon dam in the Hells Canyon reach and to meet ESA and Land and Resource Management Plans (LRMP) requirements. Additional objectives include: reconnection of populations of bull trout and redband trout that have been fragmented by the Project and improvement of habitat for native fish species in waters affected by the Project.

Riparian Vegetation

The load following operations of the Project are currently affecting riparian community establishment in the fluctuation zone in the river reach downstream of Hells Canyon dam. These communities provide habitat for Threatened & Endangered species, Regional Forester Sensitive species, and Forest Plan Management Indicator Species.

Terrestrial and Botanical Resources

The Project will continue to impact NFS land terrestrial and botanical resources both within and adjacent to Project reservoirs, and along the river reach downstream of

Hells Canyon dam. These effects include impacts to upland, riparian, wetland and island habitats and to the wildlife species associated with those habitats as well as erosion of reservoir and Snake River shorelines. Additional impacts include effects to Threatened and Endangered species, invasion and expansion of exotic and invasive vegetative species, and impacts of transmission line O&M activities to upland and riparian habitats, and dependent wildlife species.

Therefore, given the significant national public resources at risk, the unique opportunities for enhancing these resources, and the potential for conflict with ongoing programs and plans, the USDA Forest Service must be a full and active party to the relicensing of the Project. The USDA Forest Service should participate in the determination of impacts on recreational and natural resources, especially with regard to effects on fisheries and riparian areas, and in the development of measures necessary for the protection of, mitigation for, and enhancement of these resources.

GROUND FOR INTERVENTION

Commission Rule 214 provides for intervention by a federal agency representing public interests that may be affected directly. 18 C.F.R. § 385.214(b)(2)(i), (ii). The following statutes, the Federal Power Act, 16 U.S.C. § 797(e) and 803(a), the National Environmental Policy Act, 42 U.S.C. § 4321 et. seq., the Organic Administration Act, 16 U.S.C. § 475, the Multiple Use Sustained Yield Act, 16 U.S.C. § 528, and the National Forest Management Act, 16 U.S.C. § 1600 et. seq., among others, constitute Congressional statements of the national public interest in protection of fish, wildlife, cultural, recreation, and riparian resources. They also indicate Congress' intent that the

Department represent those interests which may be affected directly by any proceeding convened in response to IPC's application for relicensing. No other party or intervener has such authority to represent these particular national public interests.

Moreover, intervention by the Department would help the Commission efficiently fulfill its consultation, coordination, environmental assessment, and related responsibilities as set out in the National Environmental Policy Act, 42 U.S.C. § 4332(2)(C), and in the Federal Power Act, 16 U.S.C. 791a et. seq.

REQUEST

For the reasons stated above, the Department of Agriculture moves the Federal Energy Regulatory Commission to issue an order granting the Department's motion to intervene in this proceeding.

Respectfully submitted this 23rd day of January, 2004.

For the United States
Department of Agriculture

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**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

IN THE MATTER OF THE APPLICATION) FOR THE NEW LICENSE FOR) HELLS CANYON) HYDROELECTRIC PROJECT) _____)	Project Number: 1971-079
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**UNITED STATES DEPARTMENT OF AGRICULTURE
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have made service of the foregoing MOTION TO INTERVENE upon the parties hereto by causing them to be mailed in the United States Post Office at Portland, Oregon, on January 23, 2004, a certified true, exact and full copy thereof, enclosed in a postage-paid envelope addressed to:

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